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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/547,846	04/12/2000	Jeremy Rosenberg	14688-504	6270

6449 7590 08/21/2003

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EXAMINER

CHANG, SABRINA A

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/547,846	ROSENBERG, JEREMY
	Examiner	Art Unit
	Sabrina Chang	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 13 June 2003.

2a) This action is FINAL.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-18 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments, see Paper 12, filed August 13, 2003, with respect to the rejection(s) of claim(s) 1-18 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Decinque, U.S. Patent No. 6,286,139.

### *Response to Amendment*

Applicant's request for reconsideration of the finality of the rejection of the last Office action - as discussed in Interview Summary (Paper 13) and Request for Reconsideration (Paper 11) - is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decinque U.S. Patent No. 6,286, 139.

Decinque discloses a system and method for ordering video content through the Internet. Vendors advertise their video products and services through the Internet (broadcasting messages that contain information/clips of a product) [Col 1, Line 13]. Allowing the end-user to purchase the product immediately, by clicking on the advertisement, creates an impulse purchase potential (responding to the broadcast message using a first transmission medium, i.e. the Internet) [Col 1,

Line 46]. The end-user's order travels from their client-side interface, via an Internet server to a data processing center (fulfillment center) [Col 2, Line 19]. The Internet server comprises a database that stores customer data, including a passcode or telephone number [Col 4, Line 53]. The end-user is required to input a passcode, which is matched to that stored in the database, to determine if they are in fact allowed to purchase a product (determining whether customer is permitted to purchase the item) [Col 5, Line 7]. If the end-user is verified, the video content is delivered to them via cable lines (second transmission medium is different from the first transmission medium, different address is associated with customer) [Col 5, Line 26]. The customer is billed for the content (payment identifier associated with the customer) [Col 5, Line 26].

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The articles "Global Media...", "Platinum Entertainment...", "Thinking Globally...", "Tune into...", "Yahoo!", "WebRadio.com...", "Blue Note Radio" disclose the proliferation of Internet radio stations. Consumers can listen to a station and purchase the songs that like. These articles do not disclose however the delivery of such media over another communications network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabrina Chang whose telephone number is 703 305 4879. The examiner can normally be reached on 8:30 am - 5:30 pm Mon.- Fri..

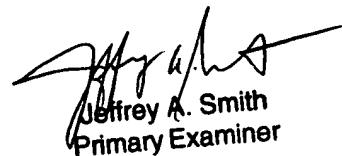
Art Unit: 3625

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703 308 1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 305 7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

SC

August 8, 2003



Jeffrey A. Smith  
Primary Examiner